

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
LOGAN COUNTY, ILLINOIS**

EDGAR COUNTY WATCHDOGS,)	
)	
Plaintiff,)	2019CH15
)	
v.)	
)	
ATLANTA PUBLIC LIBRARY DISTRICT,)	
)	
Defendant.)	

COMPLAINT

NOW COMES Plaintiff, EDGAR COUNTY WATCHDOGS, by its undersigned attorneys, LOEVY & LOEVY, and brings this suit to overturn Defendant ATLANTA PUBLIC LIBRARY DISTRICT's refusal, in willful violation of the Illinois Freedom of Information Act, to properly respond to ECW's Freedom of Information Act requests. In support of its Complaint, ECW states as follows:

INTRODUCTION

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act ("FOIA"). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of

government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

3. All public records of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt. 5 ILCS 140/3.

4. Under FOIA Section 11(h), “except as to causes the court considers to be of greater importance, proceedings arising under [FOIA] shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.”

PARTIES

5. Plaintiff EDGAR COUNTY WATCHDOGS is the FOIA requester in this case.

6. Defendant ATLANTA PUBLIC LIBRARY DISTRICT is a public body located in Logan County, Illinois.

FEBRUARY 20, 2019 FOIA REQUEST

7. On February 20, 2019 ECW requested from APLD copies of “all subpoenas (unredacted) received by the Library, by any current or former member of the Atlanta Public Library Board of Trustees, and by any current or former employees of the Atlanta Public Library Board. This would also include the Museum and Palms Grill. Since January 2018.” Ex. A.

8. On February 28, 2019 APLD took an extension of five business days to respond to the request. Ex. A.

9. On March 5, 2019 APLD denied the request citing FOIA Section 7(1)(a) and 725 ILCS 5/112-6 which exempts “matters occurring before the grand jury” from disclosure. APLD also referenced the Illinois Supreme Court decision *BGA v. Office of the Special Prosecutor, et. al.*, claiming that the decision exempts the requested records from disclosure. Ex. B.

10. As the Appellate Court held when former Governor Blagojevich tried to withhold federal grand jury subpoenas he received from disclosure, recipients of grand jury subpoenas are not prohibited from disclosing them. *Better Gov't Ass'n v. Blagojevich*, 386 Ill. App. 3d 808, 814-815 (2008).

COUNT I – AUGUST 28 FAILURE TO PRODUCE RECORDS

- 11. The above paragraphs are incorporated by reference.
- 12. APLD is a public body under FOIA.
- 13. The records sought in ECW's FOIA request are non-exempt public records of APLD.
- 14. APLD violated FOIA by failing to respond to the FOIA requests by the required deadline.

COUNT II – AUGUST 28 WILLFUL AND INTENTIONAL VIOLATION OF FOIA

- 15. The above paragraphs are incorporated by reference.
- 16. APLD is a public body under FOIA.
- 17. The records sought in ECW's FOIA request are non-exempt public records of APLD.
- 18. APLD willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

WHEREFORE, ECW asks that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court's docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;

- ii. declare that APLD has violated FOIA;
- iii. order APLD to produce the requested records;
- iv. enjoin APLD from withholding non-exempt public records under FOIA;
- v. order APLD to pay civil penalties;
- vi. award Plaintiff reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

Attorneys for Plaintiff
EDGAR COUNTY WATCHDOGS

Matthew Topic
Joshua Burday
Merrick Wayne
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com
Atty. No. 41295


From: Atlanta Library <apldinformation@gmail.com>
Sent: Tuesday, March 05, 2019 10:35 AM
To: John Kraft <>
Subject: Re: FOIA Request (Atlanta Public Library District) - 2-20-2019

Exhibit A

Mr Kraft,

Please see the attached in response to your request.

Sincerely,

Rachel Neisler

FOIA Officer

Atlanta Public Library District

apldinformation@gmail.com

On Thu, Feb 28, 2019 at 10:15 AM Atlanta Library <apldinformation@gmail.com> wrote:

Mr Kraft,

Per 5 ILCS 140/3(e)(v) your request will require an additional 5 business days to complete. You will receive a response to your request no later than March 7, 2019.

Sincerely,

Rachel Neisler

FOIA Officer

Atlanta Public Library District

apldinformation@gmail.com

On Wed, Feb 20, 2019 at 5:15 PM John Kraft [REDACTED] wrote:

In accordance with the Freedom of Information Act I am requesting the following. If you are not the FOIA officer please forward to the FOIA officer as required by statute.

I am requesting the following information under the Freedom of Information Act:

1. Copy of all subpoenas (unredacted) received the Library, by any current or former member of the Atlanta Public Library Board of Trustees, and by any current or former employees of the Atlanta Public Library Board. This would also include the Museum and Palms Grill. Since January 2018.

Electronic copies are requested.

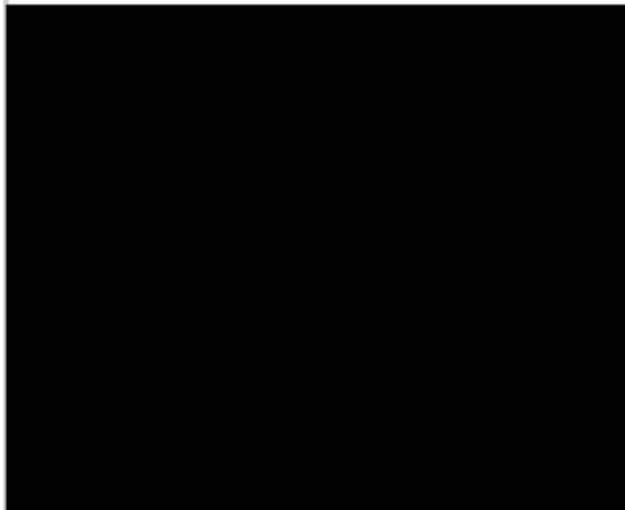
This is not a commercial request.

I qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), and the principal purpose of the request is to access and disseminate information concerning news and current or passing events, or for articles of opinion or features of interest to the public.; Section 2 (f) ("News media") as an Investigative Reporter for Disclosure News Magazine, an online and printed newspaper, and an Investigative Reporter for the Edgar County Watchdogs, an online news site, and am engaged in making news reels and other motion picture for public viewing, and as a news service to provide news and data to news organization(s) and nonprofits; Section 2 (g) ("Recurrent requester"); and Section 2 (h) ("Voluminous request") of the Freedom of Information Act, for the purposes of being exempt to the provisions of Section 3.1 (Requests for commercial purposes); Section 3.2 (Recurrent requesters); Section 3.6 (Voluminous requests), and Section 6 (Authority to charge fees).

This is also a request for fee waiver, should any fees be imposed, as this information bears on the public business of the Atlanta Public Library District and will be used to inform citizens of the actions of their public officials and employees, of their rights and responsibilities, of news and current or passing events, and for articles of opinion or features of interest to the public.

Thanks,

John Kraft



--

APLDinformation@gmail.com / AtlantaPLD.org

Atlanta Public Library & Museum ALS Dist. #145

[100 NW Race St](#) PO Box 568 Atlanta IL 61723

M 10-12:30 / Tu&Th 10-7 / W&F 10-4:30 / Sa 9-3

p [1-217-648-2112](tel:1-217-648-2112) / f [1-217-648-5269](tel:1-217-648-5269)

--

APLDinformation@gmail.com / AtlantaPLD.org

Atlanta Public Library & Museum ALS Dist. #145

[100 NW Race St](#) PO Box 568 Atlanta IL 61723

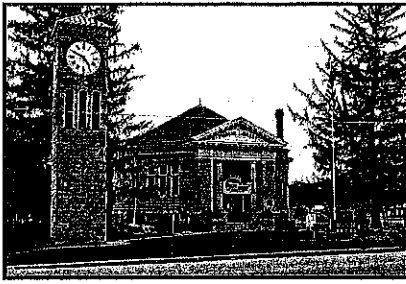
M 10-12:30 / Tu&Th 10-7 / W&F 10-4:30 / Sa 9-3

p [1-217-648-2112](tel:1-217-648-2112) / f [1-217-648-5269](tel:1-217-648-5269)



kraft3.7.pdf

217K



ATLANTA PUBLIC LIBRARY DISTRICT

Atlanta Public Library & Museum

100 Race Street, P. O. Box 568, Atlanta, IL 61723

217-648-2112/apldinformation@gmail.com/www.atlantapld.org

Trustees

Randy L. Brooks

President

Lori Cotton

Vice-President

Karen Horn

Secretary

Steve Dreyer

Treasurer

Robert Letterly

Trustee

Jeremy Sneed

Trustee

James Welchel

Trustee

Directors

Catherine Maciariello

Library Director

Rachel Neisler

Museum Director

March 5, 2019

Mr Kraft,

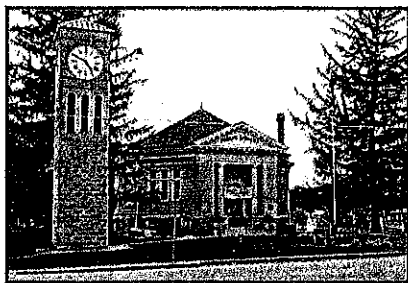
On February 21, 2019, you requested the following records: "copy of all subpoenas (unredacted) received [by] the Library, by any current or former member of the Atlanta Public Library Board of Trustees, and by any current or former employees of the Atlanta Public Library Board. This would also include the Museum and Palms Grill. Since January 2018"

As the acting FOIA Officer for this Public Body, I am denying your request under Section 7(1)(a) of 5 ILCS 140, because this request contains information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law. (5 ILCS 140/7(1)(a)) Disclosure of the requested materials is prohibited under section 112-6(c)(1) of the Code of Criminal Procedure of 1963 (725 ILCS 5/112-6) and similar federal law, which bars disclosure of "matters occurring before the Grand Jury" rendering the requested materials exempt from disclosure pursuant to section 7(1)(a) of FOIA. In addition, in an opinion filed on January 25, 2019, the Supreme Court of the State of Illinois in *In re Appointment of the Special Prosecutor (BGA v. Office of the Special Prosecutor, et al.)* ruled that grand jury documents were exempt from disclosure under FOIA.

You have a right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

The Atlanta Public Library District strives to be a service-driven community resource for learning, creativity and engagement. Its mission is to improve the quality of life of adults and children by expanding their horizons, meeting their learning needs, and enhancing their interests in meaningful and entertaining ways.

Exhibit B



ATLANTA PUBLIC LIBRARY DISTRICT

Atlanta Public Library & Museum

100 Race Street, P. O. Box 568, Atlanta, IL 61723

217-648-2112/apldinformation@gmail.com/www.atlantapld.org

Trustees

Randy L. Brooks

President

Lori Cotton

Vice President

Karen Horn

Secretary

Steve Dreyer

Treasurer

Robert Letterly

Trustee

Jeremy Sneed

Trustee

James Welchel

Trustee

Directors

Catherine Maciariello

Library Director

Rachel Neisler

Museum Director

Public Access Counselor

Office of the Attorney General

500 South 2nd Street

Springfield, Illinois 62706

Fax: 217-782-1396

E-mail: publicaccess@atg.state.il.us

You also have the right to seek judicial review of your denial by filing a lawsuit in the State circuit court. 5 ILCS 140/11.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Sincerely,

Rachel Neisler

FOIA Officer

Atlanta Public Library District

P.O. Box 568

Atlanta, IL 61723

217-648-2112

apldinformation@gmail.com

The Atlanta Public Library District strives to be a service-driven community resource for learning, creativity and engagement. Its mission is to improve the quality of life of adults and children by expanding their horizons, meeting their learning needs, and enhancing their interests in meaningful and entertaining ways.